

## Calendar No. 173

106TH CONGRESS }  
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SENATE

{ REPORT  
106-91

### MIAMI CIRCLE IN BISCAYNE NATIONAL PARK

JUNE 24, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany S. 762]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 762) to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Tequesta Indians were one of the earliest groups to establish permanent villages in southeast Florida;

(2) the Tequestas had one of only two North American civilizations that thrived and developed into a complex social chiefdom without an agricultural base;

(3) the Tequesta sites that remain preserved today are rare;

(4) the discovery of the Miami Circle, occupied by the Tequesta approximately 2,000 years ago, presents a valuable new opportunity to learn more about the Tequesta culture; and

(5) Biscayne National Park also contains and protects several prehistoric Tequesta sites.

(b) PURPOSE.—The purpose of this Act is to direct the Secretary to conduct a special resource study to determine the national significance of the Miami Circle site as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) MIAMI CIRCLE.—The term “Miami Circle” means the property in Miami-Dade County of the State of Florida consisting of the three parcels described in Exhibit A in the appendix to the summons to show cause and notice of emi-

nent domain proceedings, filed February 18, 1999, in *Miami-Dade County v. Brickell Point, Ltd.*, in the circuit court of the 11th judicial circuit of Florida in and for Miami-Dade County.

(2) PARK.—The term “Park” means Biscayne National Park in the State of Florida.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

#### SEC. 3. SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—Not later than one year after the date funds are made available, the Secretary shall conduct a special resource study as described in subsection (b). In conducting the study, the Secretary shall consult with the appropriate American Indian tribes and other interested groups and organizations.

(b) COMPONENTS.—In addition to a determination of national significance, feasibility, and suitability, the special resource study shall include the analysis and recommendations of the Secretary with respect to—

(1) which, if any, particular areas of or surrounding the Miami Circle should be included in the Park;

(2) whether any additional staff, facilities, or other resources would be necessary to administer the Miami Circle as a unit of the Park; and

(3) any impact on the local area that would result from the inclusion of Miami Circle in the Park.

(c) REPORT.—Not later than 30 days after completion of the study, the Secretary shall submit a report describing the findings and recommendations of the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the United States House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

2. Amend the title so as to read: “A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes.”

#### PURPOSE OF THE MEASURE

The purpose of S. 762, as ordered reported, is to authorize the Secretary of the Interior to conduct a special resource study to assess the suitability and feasibility of including the Miami Circle archaeological site in Biscayne National Park, in the State of Florida.

#### BACKGROUND AND NEED

The Miami Circle is 38-foot-diameter circle of a 2.2 acre archaeological site in downtown Miami, Florida. It is at the edge of the Miami River where it flows into Biscayne Bay. It was discovered in August 1998 where a proposed condominium project was to be built. It was quickly dubbed “Stonehenge in Negative.”

Although the developer offered to carve out and relocate the circle, in February 1999 the Miami-Dade Commission condemned the land to prevent any additional work at the site. Courts have yet to determine the price for the land, although the developer, Michael Baumann paid \$8 million for the site. The State of Florida has agreed to pay half of the land acquisition cost if Miami-Dade County acquires the site.

The general area was documented in 1941 as a former Tequesta Native American site, but, little field work had been done to research the site until 1998.

Some archaeologists believe that it is the base of a Tequesta lodge or temple house and that it could yield significant clues about their native culture. The circle is composed of 24 shallow, irregular

shaped basins surrounded by more than 600 postholes. Radio-carbon dating has shown pieces of charcoal and other artifacts to be at least 1,800 years old.

The Miami Circle is located about 5 miles north of Biscayne National Park. Discussions about adding Miami Circle to the park began soon after its discovery. Other Tequesta archaeological sites are located on the park's islands.

Biscayne National Park was first authorized as a national monument in 1968 and was enlarged and redesignated a national park in 1980. Current acreage is 172,924.07 of which 169,867.36 is Federally owned. However, about 95 percent of the park is underwater. The park's actual land mass is 4,446.23 acres. Park lands are located on the mainland and on several subtropical islands, in a north-south chain with Biscayne Bay on the west and the Atlantic Ocean on the east.

Biscayne National Park protects submerged cultural resources, historic structures, marine systems, including mangrove shorelines, bay communities and the northernmost coral reef in the United States.

#### LEGISLATIVE HISTORY

S. 762 was introduced by Senator Graham on March 25, 1999. the Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 762 on May 25, 1999.

At its business meeting on June 16, 1999, the Committee on Energy and Natural Resources ordered S. 762, favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on June 16, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 762, is amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 762, the Committee adopted an amendment in the nature of a substitute, and an amendment to the title.

In addition to making several technical, clarifying and conforming changes, the amendment directs the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site, as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park.

The Secretary of the Interior is also directed to consult with appropriate American Indian tribes and other interested groups and organizations while conducting the study.

The amendment is explained in detail in the section-by-section analysis, below.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* contains Congressional findings and purposes. The purpose of this Act is to direct the Secretary of the Interior to conduct

a special resource study to determine the national significance of the Miami Circle site as well as the suitability and feasibility of its inclusion in the National Park system as part of Biscayne National Park.

*Section 2* defines the terms used in this Act.

*Section 3* (a) directs the Secretary of the Interior to conduct a special resource study not later than one year after the date that funds are appropriated for the purposes of this Act. In conducting the study the Secretary is directed to consult with appropriate American Indian tribes and other interested groups and organizations.

Subsection (b) mandates the study to include analysis and recommendations with respect to which, if any, particular areas of the Miami Circle should be included within Biscayne National Park; whether additional staff, facilities or other resources would be necessary to administer the area as a unit of the park; and whether any impact on the local area would result from including Miami Circle in the park.

Subsection (c) directs that within 30 days of its completion, the study is to be submitted to the Senate Committee on Energy and Natural Resources and the House of Representatives Committee on Resources.

Subsection (d) authorizes the appropriation of funds necessary to carry out the purposes of the Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, June 23, 1999.

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 762, a bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park.

If you wish further details on this estimate, we will be pleased to provide them. the CBO staff contact for this estimate is Deborah Regis.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 762—A bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park*

S. 762 would direct the Secretary of the Interior to conduct a special resource study of the Miami Circle, a recently discovered ar-

cheological site in downtown Miami, Florida. The study would determine the national significance of the site as well as the feasibility and suitability of including it within Biscayne National Park. The Secretary would include in the study any recommendations on which areas of or surrounding the Circle should be included in the park and whether additional staff or other resources would be necessary as a result of such inclusion. The bill would authorize the appropriation of whatever sums are necessary to conduct the study, and it would require the Secretary to report on its findings and recommendations within one year and 30 days of receiving funds.

Assuming appropriation of the necessary amount, CBO estimates that implementing S. 762 would cost the federal government \$150,000 over the next year to complete the required study and report. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 762 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 762. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 762, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On May 25, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 762. These reports had not been received at the time the report on S. 762 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF KATHERINE STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 762, to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park.

The Department supports S. 762 with the amendments outlined in our testimony.

The Miami Circle is an archaeological site in downtown Miami that was discovered last year during the pre-construction survey for a condominium building. The site is located at the mouth of the Miami River, about six miles from the northern boundary of Biscayne National Park. It consists of a circle measuring 38 feet in diameter cut into the limestone bedrock with approximately 20 irregular basins, several hundred smaller "postholes," a carving resembling an eye, and several possible astronomical alignments. Also present are several offerings, including two axes manufactured out of basaltic stone—not native to Florida—and shark and sea turtle skeletons. It is possible that the Tequesta occupied this site as long as 2,000 years ago, remaining there until about 500 years ago.

The Tequesta was one of the earliest groups to establish permanent villages in southeast Florida. They developed a culture and subsistence that was highly successful. By exploiting the rich marine and coastal environment along Biscayne Bay, the Tequesta developed a complex social chiefdom without an agricultural base. The Miami Circle site might possibly have served as the center of religious, trading and political activity.

In that Tequesta sites are often located on the coast or along rivers, these sites are attractive to developers and are becoming increasingly scarce. Although Biscayne National Park was established primarily for the protection of its wealth of natural resources, the park is fortunate to have several well-preserved Tequesta sites within its boundaries, seven of which are eligible for the National Register of Historic Places. The National Park Service preserves these sites under the authority of the Antiquities Act of 1905 and the National Historic Preservation Act of 1935.

The future of the 2.2-acre Miami Circle is now in the hands of the courts. In February, Miami-Dade County initiated a condemnation proceeding to acquire the property. Last month, a circuit judge allowed the case to proceed, stating that the county has a substantial likelihood of success in pursuing its eminent domain case. A jury trial on the matter could begin as early as next month. The State of Florida is also involved, as Governor Jeb Bush has made a commitment to use state land acquisition funds to finance up to half of the cost of purchasing the site. However, assuming the county is successful in its effort to acquire the Miami Circle, the question of how the site can best be managed, and by whom, will remain.

Mr. Chairman, S. 762 directs the Secretary to conduct a feasibility study to determine whether Miami Circle should be included in Biscayne National Park. We recommend broadening the study to encompass a range of alternatives for protecting the site, including an analysis of various management options. The Miami Circle is about a 20-mile

drive from Biscayne National Park headquarters, and would pose a new set of management challenges for the National Park Service should it added to the park. Therefore, it would be prudent to study other possibilities for the site's protection as well.

Broadening the study would also make it consistent with the requirements for studying new areas to be added to the National Park System that are specified in Section 303 of the National Park System Omnibus Management Act of 1998 (P.L. 105-391). As you know, this law requires reports on these studies to consider whether the area under study possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and is a suitable and feasible addition to the system.

To broaden the scope of the study as we have suggested, we believe the following changes are needed:

First, in the bill's findings, on page 2, line 10, we suggest inserting "also" between "Florida" and "contains" to clarify that Biscayne National Park is not the only place where Tequesta sites exist. We also propose deleting lines 12-15 on page 2, which state, in part, that "the Miami Circle should be preserved and protected as part of the Park," since that is a matter that should be determined by the study, not by the legislation authorizing the study.

Second, we recommend revising Section 1(b), on page 2, lines 16-18, which states the bill's purpose, to direct the Secretary "to conduct a Special Resource Study to determine the national significance of the Miami Circle site as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park."

Consistent with that change, we suggest changing the title of Section 3, "Feasibility Study" to "Special Resource Study". In Section 3(a), on page 3, lines 14 and 15, we recommend striking "a study to determine the feasibility of including the Miami Circle in the Park." and inserting "a special resource study." In addition, in Section 3(b), on page 3, lines 16 and 17, we recommend revising the sentence after "Components," to read: "In addition to a determination of national significance, feasibility, and suitability, the Special Resource Study shall include the analysis and recommendations of the Secretary with respect to—". Finally, in Section 3(c), on page 4, line 4, we recommend deleting the word "feasibility".

We also believe that this study should be conducted with the full cooperation and consultation of appropriate American Indian tribes and other interested groups and organizations. Their input in determining the disposition of the site would be invaluable and would avoid potential misinterpretation of the study's purpose and findings. Therefore, we recommend that in Section 3(a), on page 3, line 15, a new sentence be inserted that reads: "In conducting the study, the Secretary shall consult with the appropriate

American Indian tribes and other interested groups and organizations.”

By adopting the above changes, Congress would ensure that S. 762 enables the National Park Service to recommend the most appropriate means of protecting the Miami circle.

This concludes my statement, Mr. Chairman. I would be pleased to respond to questions from you or other committee members.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 762, as ordered reported.

